

Impact Analysis

04 NCAC 02S .1011 ADVERTISING OF SPIRITUOUS LIQUORS

Alcoholic Beverage Control Commission

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Authority: G.S. 18B-100; 18B-105; 18B-207; 18B-801

Impact Summary: State Government: No

Local Government: No

Substantial Economic Impact: No

The rule change is necessary because it is in direct conflict with 04 NCAC 02S .1008(a)(1) and 04 NCAC 02T .0712(8)(a). Rule 04 NCAC 02S .1008 was amended on January 1, 2011, to allow for mixed beverage permittees to utilize point of sale advertising. Rule 04 NCAC 02T .0712 was amended on April 1, 2011, to allow for this practice. Because these rules are already in place, 04 NCAC 02S .1011's restriction is moot and needs to be amended to reduce any confusion between the three rules.

This would reduce any telephone calls and email to the Commission in reference to any confusion, so there might be some small savings from staff having to answer less calls and emails. There have been no calls or emails in reference to any confusion since the amendment of these two rules.

04 NCAC 02S .1011 is proposed for amendment as follows:

04 NCAC 02S .1011 ADVERTISING OF SPIRITUOUS LIQUORS

(a) ABC Stores. An ABC store may have one or more outside signs located on the premises for the purpose of identifying the outlet if the sign is not prohibited by local ordinance and it has been approved by the Commission.

During the approval process the Commission shall consider the following factors:

- (1) the proximity of the ABC store to schools and churches;
- (2) the number and size of the signs requested;
- (3) the text and graphics on the sign;
- (4) the materials that make up the sign; and
- (5) the public concern in matters of the public's welfare.

(b) Aerial Displays. No distiller, importer, or rectifier of spirituous liquor, or representative thereof, nor any retail permittee, shall advertise by means of an aerial display or inflatable the brand name or availability of spirituous liquor.

(c) Billboards; Media. Industry members may advertise spirituous liquor on outdoor billboards, by radio, television, newspaper, magazine or internet, and by other similar means. Outdoor billboards or signs shall not be displayed on the premises of any retail permittee's establishment nor in areas where sale of that product is unlawful.

(d) Point-of-Sale. Point-of-sale and advertising specialties for spirituous liquor may be used in ABC ~~stores but not in retail establishments holding permits issued by the Commission.~~ stores. Advertising used in ABC stores shall conform to the provisions of Rule .1005 of this Section, and in addition shall not:

- (1) incorporate the use of any present or former athlete or athletic team; or
- (2) refer to the availability of or offer any alcoholic beverages by mail.

All point-of-sale advertising material, advertising specialties, and recipes, booklets or brochures intended for use and display in ABC stores shall first be submitted to the Commission prior to their display in an ABC store.

(e) Local ABC Boards. Local ABC boards may advertise on their web site or social networking page the following information:

- (1) general information such as the history of the ABC board, locations, hours of operation, contact information, employment opportunities, alcohol enforcement, alcohol education, underage drinking education and other local government information; and
- (2) liquor products and prices, as long as:
 - (A) no logos are shown;
 - (B) when a product is listed, all products that are offered are listed;
 - (C) when a product's regular price is listed, all products' regular prices offered by the board are listed; and
 - (D) when a special price is listed for a product, all products with special prices offered by the board are listed.

(f) Local boards may join local chambers of commerce or visitor's bureaus and may provide them general board information which includes store locations and hours to be distributed through the chambers of commerces' or visitor's bureaus' media information.

History Note: Authority G.S. 18B-100; 18B-105; 18B-207; 18B-801;

Eff. January 1, 1982;

Amended Eff. June 1, 2012; November 1, 2011; January 1, 2011; July 1, 1992; May 1, 1984.